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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH TORRES,
Petitioner,
v.
STATE OF NEVADA,
Respondent.

Case No. 3:18-cv-00252-HDM-VPC

ORDER

Petitioner has filed a motion for extension of time to file parallel protective petition for writ of habeas corpus. Petitioner's commencement of the action in this manner has multiple defects. First, petitioner has neither paid the filing fee of \$5.00, nor has he filed an application to proceed in forma pauperis. Petitioner must take care of that problem before he can proceed. Second, the only time limitation petitioner currently is under is the one-year statute of limitation of 28 U.S.C. § 2244(d). The court has no power to extend that limitation. Petitioner is responsible for filing a federal petition within that one-year period. Third, currently there is no petition before the court. The motion for extension has no effect upon the timeliness of any later-filed petition, because the motion for extension has no grounds to which a later-filed petition can relate back. Petitioner needs to file an actual petition, and, to repeat, he alone is responsible for filing it on time.

1 IT THEREFORE IS ORDERED that petitioner shall file an application for leave to
2 proceed in forma pauperis, accompanied by a signed financial certificate and a statement of his
3 inmate account. The clerk of the court shall send petitioner a blank application form for
4 incarcerated litigants. In the alternative, petitioner shall make the necessary arrangements to pay
5 the filing fee of five dollars (\$5.00), accompanied by a copy of this order. Petitioner shall have
6 thirty (30) days from the date that this order is entered to comply. Failure to comply will result in
7 the dismissal of this action.

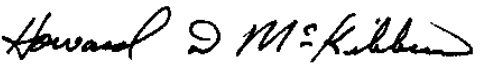
8 IT FURTHER IS ORDERED that the clerk of the court shall send petitioner a petition for
9 a writ of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner shall have
10 thirty (30) days from the date that this order is entered in which to file a petition. Neither the
11 foregoing deadline nor any extension thereof signifies or will signify any implied finding of a
12 basis for tolling during the time period established. Petitioner at all times remains responsible for
13 calculating the running of the federal limitation period under 28 U.S.C. § 2244(d)(1) and timely
14 asserting claims. Failure to comply with this order will result in the dismissal of this action.

15 IT FURTHER IS ORDERED that petitioner shall place the case number, 3:18-cv-00252-
16 HDM-VPC, in the space provided on the form.

17 IT FURTHER IS ORDERED that the clerk of the court file the motion for extension of
18 time to file parallel protective petition for writ of habeas corpus.

19 IT FURTHER IS ORDERED that the motion for extension of time to file parallel
20 protective petition for writ of habeas corpus is **DENIED**.

21 DATED: June 18, 2018

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23 HOWARD D. MCKIBBEN
24 United States District Judge
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